

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

MICHAEL SCOTT,	)	8:13CV288
	)	
Plaintiff,	)	
	)	
v.	)	<b>MEMORANDUM</b>
	)	<b>AND ORDER</b>
UNKNOWN,	)	
	)	
Defendant.	)	

This matter is before the court on its own motion. On October 8, 2013, the court required Plaintiff to show cause why he is entitled to proceed in forma pauperis (“IFP”) pursuant to the provisions of [28 U.S.C. §1915\(g\)](#) (“§ 1915(g)”). (Filing No. [6](#).) Plaintiff did not file a response to the court’s Memorandum and Order and, as set forth below, this matter is dismissed.

### I. BACKGROUND

On September 12, 2013, while incarcerated, Plaintiff filed a Complaint (filing no. [1](#)) and a Motion for Leave to Proceed IFP (filing no. [2](#)). On October 8, 2013, the court determined that Plaintiff is a three-strikes litigant who filed at least three prior actions that were dismissed as frivolous, malicious, or for failure to state a claim upon which relief may be granted. (Filing No. [6](#).) *See also Scott v. Stephens, et al.*, No. 2:06cv108 (S.D. Tex. Mar. 17, 2006) (order granting plaintiff’s motion to proceed in forma pauperis, subject to sanctions); *Scott v. Bush, et al.*, No. 6:97cv005 (E.D. Tex. May 12, 1997); *Scott v. Layton, et al.*, No. 6:97cv332 (E.D. Tex. Mar. 5 1998); *Scott v. Hunter, et al.*, No. 1:99cv003 (N.D. Tex. Jan. 11, 2000); *Scott v. Groomer, et al.*, No. 2:02cv126 (N.D. Tex. 2002); *Scott v. Groomer*, No. 03-10433 (5th Cir. Oct. 22, 2003).

Because Plaintiff is a three-strikes litigant, the court ordered Plaintiff to either show cause why he is entitled to proceed IFP or pay the full \$350 filing fee, or his case would be dismissed. (Filing No. [6](#).) Plaintiff did not file a response to the court’s October 8, 2013, Memorandum and Order, and has taken no other action in this matter. (*See Docket Sheet.*)

## II. ANALYSIS

A prisoner may not bring a civil action and proceed IFP if the prisoner has, on three or more occasions, while incarcerated, brought an action or appeal in federal court that was dismissed on the grounds that it was frivolous, malicious, or failed to state a claim upon which relief may be granted. [§ 1915\(g\)](#). An exception is made for prisoners who are under imminent danger of serious physical injury. *Id.*

In its previous Memorandum and Order, the court ordered Plaintiff to show cause why his case should not be dismissed pursuant to [§ 1915\(g\)](#). (Filing No. 6.) Plaintiff did not respond to the court's October 8, 2013, Memorandum and Order. (*See* Docket Sheet.) Thus, Plaintiff has not shown that he faces any imminent danger of serious physical injury. In light of this, Plaintiff is not entitled to proceed IFP, nor has he paid the full \$350 filing fee. For these reasons, this matter must be dismissed.

IT IS THEREFORE ORDERED that:

1. This matter is dismissed without prejudice.
2. A separate judgment will be entered in accordance with this Memorandum and Order.

DATED this 13<sup>th</sup> day of November, 2013.

BY THE COURT:

s/ Joseph F. Bataillon  
United States District Judge

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